

Illinois Unclaimed Property
Illinois State Treasurer Michael W. Frerichs

Act and Rules

**RULES GOVERNING THE EXECUTION AND ENFORCEMENT OF THE
UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT**

TITLE 74: PUBLIC FINANCE

CHAPTER V: TREASURER

PART 760 UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

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Reg. 8325, effective June 8, 1996; recodified from the Department of Financial Institutions (38 Ill. Adm. Code 180) to the State Treasurer, pursuant to PA 91-16, at 26 Ill. Reg. 8164; emergency amendment at 28 Ill. Reg. 13919, effective October 5, 2004, for a maximum of 150 days; emergency expired March 3, 2005.

Section 760.10 Definitions

"Act" – means the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025] and the rules in this Part.

"Active Express Trust" – excludes any trust: the purpose for which it was created no longer exists and no court having jurisdiction shall have entered an order in connection therewith; or of which no beneficiary can be located to whom income or increment from such trust is payable or distributable. Intangible personal property held for the benefit of a person, firm or entity not designated as beneficiary pursuant to the terms of said trust shall not be deemed to be held in a fiduciary capacity by said trustee.

"Activity" – occurs when the owner takes any action described in Section 2 of the Act which prevents a presumption of abandonment. Activity in any account on a consolidated statement shall constitute activity for any other account on that statement. Non return of mail shall constitute activity only if the holder sends a notice to the owner, return receipt requested, and has on file the signed return receipt.

"Additional like period" as used in Section 2(e) of the Act, except where the original deposit instrument agreed to by the parties contains a fixed final maturity date, means, where the right to extend is exercised by the organization, one extension or rollover with the date of the expiration of the extension or rollover period becoming the final maturity date for the deposit.

"A Matured Time Deposit", except as provided for in Section 2(e) of the Act, is any time deposit, certificate of deposit, money market certificate or like instrument on which the initial term has expired.

"Commodities" – means a basic item or staple product underlying commodity future contracts, or traded as physical units of delivery for immediate delivery in the cash or spot market.

"Delivery Date" as used in Section 760.89(a)(2) means the date when a report would be deemed received and filed by the Department.

"Deposit" as used in Section 2 of the Act includes all accounts of an individual owner which are reported by the banking or financial institution to the owner on a consolidated statement.

"Last Activity Date" means, for other than property reported in the aggregate under Section 11(b)(1) of the Act, the last verifiable date of owner contact with the property being remitted to the State Treasurer. In the alternative, where the holder's records are insufficient, it is the earliest date in the holder's records for which property can be identified minus 12 months.

"Net Worth" means the difference between total assets and total liabilities.

"Property" – means any property, tangible or intangible, reportable to the State Treasurer pursuant to the Act. Property which would be reportable prior to deduction of service charges is deemed reportable under this definition.

"Safe Deposit Box" – includes any safe, vault, safekeeping repository, agency, or collateral deposit box.

"Security" – means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, investment fund share, face-amount certificate, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral lease, right or royalty, any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"Service Charges" – constitute any charge deducted by a holder from property subject to the Act, which is imposed solely by virtue of the inactivity of that property; this includes service charges, handling charges, and administrative costs.

(Source: Amended at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.15 Presumption of Abandonment

Actions which do not prevent the presumption of abandonment include, but are not limited to, automated clearing house transfers, automatic postings to accounts, computer system conversion dates, non-return of mail, those which are non-owner initiated and those not requiring a direct owner response.

(Source: Added at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.20 Negative Reports

Holders, except as provided in Section 760.21, having no property to report shall so report to the State Treasurer on such forms provided by the Director at the reporting time designated in Section 11(d) of the Act.

(Source: Amended at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.21 Reporting

a) Reporting Requirements

- 1) Business associations who have no reportable property and annual sales of less than \$500,000, and whose securities are not publicly traded, whose net worth is less than \$1,000,000, and who employ 49 or fewer persons, are not required to file annual reports under Section 11 of the Act.

- 2) Business associations who have no reportable property and annual sales of less than \$500,000, and whose securities are not publicly traded, whose net worth is less than \$1,000,000, and who employ 50 or more people but fewer than 100 persons, are required to file reports in even-numbered years on the reporting date specified in Section 11 of the Act.
- 3) Notwithstanding the provisions of subsections (a)(1) and (2), a business association must file a report with the State Treasurer for all reportable property.

b) Information to be Reported

In applying Section 11(d) of the Act, the verified information to be included on reports to the Treasurer shall include:

- 1) the name, Social Security or federal tax identification number, if known, and last known address, including zip code, of each person appearing from the records of the holder to be the owner of any property specified in Section 11(b)(1) of the Act;
- 2) in case of unclaimed funds of life insurance corporations due beneficiaries from a life or endowment insurance policy or annuity held by life insurance corporations, the full name of the insured, the annuitant and any beneficiary, if known, and the last known address according to the life insurance corporation's records; and
- 3) the date when the property becomes "reportable property" as that term is defined in Section 1(1) of the Act [765 ILCS 1025/1(l)].

- c) Within counties having a total population under 100,000, the County and Municipal Governments and Special Taxing Districts are only required to file a report with the Treasurer for reportable property.
- d) In applying Section 10.5(d) of the Act, fraudulent reporting includes, but is not limited to, a determination by a court or administrative hearing that a holder has fraudulently reported or fraudulently failed to remit presumptively abandoned property.
- e) In applying Section 10.5(d) of the Act, failure to report includes, but is not limited to, the issuance by the Treasurer of a Notice of Delinquency on a report filed by a holder.
- f) A report required to be filed under the Act is deemed received and filed when it has been delivered complete, accurate and in correct form to the Treasurer's Unclaimed Property Division office at 1 West Old Capitol Plaza, Suite 400, Springfield IL 62701-1390, and includes any required remittance.
- g) A report will be deemed not to be timely received and filed under the Act if it:
 - 1) is submitted after the required filing date;
 - 2) is submitted in other than a form authorized in Section 760.22;
 - 3) is unsigned or undated;
 - 4) is incomplete, as defined in Section 760.24;
 - 5) is inaccurate, as defined in Section 760.24;

- 6) is without the required remittance; or
 - 7) does not meet any other requirement under the Act.
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- h) Reportable property that is not timely reported and remitted by a holder on the first reporting date specified in Section 11 of the Act after the property's initial date of presumptive abandonment must be reported upon discovery of the omission. The holder in the report must identify this property as being reported late and the reason.
 - i) Any remittance submitted under the Act must be made in United States Currency. Any submission made in foreign currency, money, checks or any other medium of a foreign country is unacceptable.

(Source: Amended at 37 Ill. Reg. 5886, effective April 18, 2013)

Section 760.22 Format/Form of Reports

Commencing January 1, 1993 a holder must file the report required under Section 111(b) of the Act on a:

- a) paper form provided by or approved by the Treasurer;
- b) computer disk formatted according to the Treasurer's instructions;
- c) magnetic tape formatted according to the Treasurer's instructions; or
- d) compact disk formatted according to the Treasurer's instructions.

(Source: Added at 17 Ill. Reg. 123, effective December 21, 1992)

Section 760.24 Incomplete/Inaccurate Report or Remittance

- a) Any report or remittance submitted to the State Treasurer which is:
 - 1) incomplete (i.e., reports which do not include vital and pertinent information, appropriate detail, correct format or remittances made out to an improper payee, or account, or security designee); or
 - 2) inaccurate (i.e., reports that are out of balance and remittances that are less than the property reported or do not include remittable interest, dividends, stock splits or underlying securities)shall be returned to the holder for correction.
- b) The holder shall submit a corrected report or remittance to the Treasurer within 20 calendar days after the Treasurer's return of the original report or remittance to the holder.
- c) Failure of the holder to submit a corrected, accurate and complete report or remittance within the time set forth in subsection (b) above shall be sufficient reason to believe and grounds for examination of the holder under section 123 of the Act.

(Source: Added at 17 Ill. Reg. 123, effective December 21, 1992)

Section 760.25 Filing Extensions

- a) A request from a holder for extension of time to report or remit, including a request for an extension of time to report or remit a part of a report or remittance, must be received by the State Treasurer a minimum of 15 business days prior to the date specified in Section 11 of the Act for the filing of a report.
- b) A request by a holder for an extension of time to report or remit must include a reasonable cause for delaying the report or remittance. Reasonable cause includes, but is not limited to, natural disaster, criminal activity related to the holder's books and records, recent changes in the form of ownership of the holder through merger, acquisition or reorganization, and, for a holder having three or fewer employees, a recent change in management. Reasonable cause does not include a failure of a holder to perform a requirement such as due diligence pursuant to Section 11(e) of the Act.
- c) The Treasurer will, where possible, respond to each request for extension within 10 business days after receipt.

(Source: Added at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.30 Safe Deposit Boxes

- a) Pursuant to Section 2(d) of the Act, safe deposit boxes which have been unclaimed for 5 years or more shall be opened. Unless opened by the owner, such boxes shall be opened and inventoried in the presence of at least two employees of the holder who shall verify the accuracy of said inventory. The property shall then be sealed for safekeeping until delivered to the owner or the State Treasurer.
- b) The property shall be offered by the Treasurer for public sale pursuant to Section 17 of the Act or by the holder pursuant to the Sale of Unclaimed Property Act [770 ILCS 90]. In the case of sale by holder, the proceeds shall be delivered to the Treasurer.
- c) The holder may be reimbursed or may deduct actual mailing, drilling and opening costs as prescribed by Section 2(d) of the Act. No other charges may be deducted unless otherwise authorized by law or expressly provided for by lawful contract with the owner.

(Source: Amended at 17 Ill. Reg. 123, effective December 21, 1992)

Section 760.35 Due Diligence

- a) Letters mailed to owners as required by Section 11(e) of the Act shall include as a minimum:
 - 1) the name, address, position and telephone number of the person to contact of the holder;
 - 2) the steps required by the owner to have the holder remit the property to the owner;

- 3) the steps required by the owner to have the holder continue to maintain the property for the owner;
 - 4) a statement that, if the owner's property is remitted to the State, the owner or heirs may file a claim for the property with the State;
 - 5) a statement that the State is a perpetual custodian for presumptively abandoned property remitted to the State;
 - 6) a date, not less than 15 business days prior to the date the holder will remit the property to the State Treasurer, by which the owner must contact the holder.
- b) A holder is not required to make a due diligence mailing to owners whose property, prior to deducting allowable service charges, has an aggregate value of less than \$10, and is not included in the categories of securities, commodities, safe deposit boxes, and tangible property.

(Source: Added at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.40 Cost of Mailing

Holders reporting money may deduct from total amounts reported, the actual costs of mailing as required by Section 11(e) of the Act. This shall consist of the cost of envelopes, postage and stationery. No other cost of mailing may be deducted. Prior to reimbursement, holder may be required to document or certify to the costs incurred.

Section 760.50 Nominee and Street Name Property

No amounts received by a banking or financial organization, or business association as the nominee, custodian, agent, or in the "street name" of the owner of any stocks, bonds or other securities which are not allocable, distributable, or payable to an express trust of which it is the trustee, shall:

- a) for purposes of Section 5 of the Act be deemed to be held as agent or as trustee of an express trust; and
- b) for purposes of Section 7(a) of the Act be deemed to be in an active express trust.

Section 760.60 Lawful Charges

- a) There must be a valid, enforceable, written contract between the holder and the customer to permit the lawful withholding of charges described in Sections 2, 2a, 4 and 9 of the Act. No holder may seek to implement the terms of any contract against the State if they do not against the customers who claim their assets prior to remittance.
- b) The holder shall provide the following information as part of any remittance report filed pursuant to Section 13 of the Act from which service charges have been deducted:
 - 1) the citation of the Act or a copy of the form of contract authorizing such service charges;

- 2) the value or amount of each item or property, prior to deduction of service charges as well as the total amount of service charges deducted from each item;
 - 3) such other information or documentation as the State Treasurer may reasonably require to substantiate the deduction of service charges. This may include correspondence, passbook provisions, signature card, regulations, by-laws, or any other documentation concerning any agreement between the holder and the customer.
- c) Intangible personal property, including but not limited to certificates, coupons, credit memos and tokens which are issued for the redemption of unspecified merchandise, unless specifically authorized by the Act, are not subject to service charges.

(Source: Amended at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.70 Discontinuance of Interest or Dividends

The holder shall cite, in its remittance report, the legal authority for discontinuing interest or dividend payments on property during the period of its inactivity. If such payments would not have been discontinued had the property been claimed by the owner prior to being reported or remitted to the State Treasurer, such discontinuance is prohibited.

Section 760.80 Statute of Limitations (Repealed)

(Source: Repealed at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.85 Situs

Where a subsidiary or affiliate of a banking organization, business association or other entity incorporated, organized or created under the laws of another state is incorporated, organized or created under the laws of this State or by federal statute, unclaimed property held by such subsidiary or affiliate is deemed to be held by a holder incorporated, organized or created under the laws of this State.

(Source: Added at 17 Ill. Reg. 9893, effective June 21, 1993)

Section 760.89 Fees

- a) The fee for the past due property or the failure to remit property, other than the contents of safe deposit boxes, shall be calculated using the formula: rate times delinquency period times value equals the fee.
 - 1) The rate is defined in Section 25.5(c) of the Act.
 - 2) The delinquency period is the period of time elapsed between the reporting due date under Section 11(d) of the Act and the delivery date.
 - 3) The value is cash value. For securities and commodities the value is the cash value on the earlier of the date of delivery of the security or commodity to the State Treasurer or the date of receipt of the actual deposit confirmation by the Treasurer.

- b) In charging a fee for a failure to timely perform due diligence in accordance with the provisions of Section 11(e) of the Act, the following conditions must be met:
 - 1) due diligence was required to be conducted.
 - 2) within 24 months after the filing the report, at least 35% of the claims are paid or authorized for payment to owners whose addresses were as reported to the Treasurer by the holder or whose mail forwarding from the reported address had not expired as of the date the report was filed.
- c) The Treasurer may, for reasonable cause, waive all or a portion of any administrative charges, fees and interest charges. Reasonable cause shall include, but not be limited to, inadvertent error, pending legal proceedings involving otherwise reportable property, and unresolved bankruptcy.

(Source: Added at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.90 Examination of Property Holders

- a) The State Treasurer shall notify the holder, in writing, ten days prior to an examination conducted pursuant to Section 23 of the Act. The Treasurer may waive the ten-day notice prior to performing an unclaimed property examination if, as a result of past experience or an examiner consultation, the Treasurer determines that the existence of the records may be placed in jeopardy by use of the notice provision.
- b) If unreported property is discovered, the Treasurer shall order the holder to report and remit the property pursuant to the Act and the Rules.
- c) Pursuant to Section 23 of the Act, the Treasurer shall have *reason to believe* that a holder has failed to report property in accordance with the Act and may examine the records of the holder, anytime one of the following conditions exist:
 - 1) A holder has submitted reports to the Treasurer in two successive calendar years in which the holder's reports state it has no unclaimed property.
 - 2) A holder has not submitted a report to the Treasurer for two successive calendar years.
 - 3) A personal interview by State Treasurer staff with the appropriate representative of the holder reveals any of the following:
 - A) The holder adjusts its asset statements by writing-off property such as check or credit balances that could be deemed unclaimed property under the Act; or
 - B) The holder does not follow generally-accepted accounting principles (Financial Accounting and Reporting Standards of the Financial Accounting Standards Board, 407 Merritt 7, P.O. Box 5116, Norwalk, CT 06856-5116 (1994), no subsequent dates or editions), or the Act with regard to unidentified remittances or the establishment of unclaimed property liability accounts; or

- C) The holder does not follow generally-accepted accounting principles (Financial Accounting and Reporting Standards of the Financial Accounting Standards Board, 407 Merritt 7, P.O. Box 5116, Norwalk, CT 06856-5116 (1994), no subsequent dates or editions), or the Act with regard to the disposition of unidentified credits; or
 - D) The holder does not retain records for five (5) years beyond the period of abandonment to determine the disposition of property which could be deemed abandoned under the Act; or
 - E) The holder's records preclude the Treasurer from determining the disposition of property which could be deemed abandoned under the Act.
 - 4) The Treasurer is notified by another governmental agency in writing or verbally with written confirmation that a holder is not in compliance with the Act.
 - 5) The total unclaimed property remitted by a holder is below the average remittance for other holders in the same industry and that have assets of similar size to the holder.
 - 6) A holder does not report all types of unclaimed assets they may be holding as indicated by but not limited to:
 - A) A previous examination of the holder; or
 - B) A comparison with the asset types reported by other holders in the same industry and that have assets of similar size to the holder.
 - 7) A holder is discovered as a subsidiary or affiliate of another holder which has been or is being examined.
 - 8) A holder is discovered as a principal or holding company of another holder which has been or is being examined.
 - 9) An unclaimed property examination of the records of the holder has not been performed for 5 or more calendar years.
 - 10) Changes in a holder's business practices, including, but not limited to, changes in financial status, technological advances, corporate structure, change in ownership, etc.
 - 11) The Treasurer has issued a written notice of deficiency to a holder.
 - 12) The Treasurer issued a fee assessment to a holder.
- d) Notwithstanding the enumerated conditions listed in subsections (c)(1)-(c)(12) above, the Treasurer may conduct an examination of a holder based on facts within the knowledge of or imparted to the Treasurer by others.

(Source: Amended at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.92 Remittance of Securities and Commodities

- a) Unless otherwise provided, all securities and commodities when remitted to the State Treasurer shall:
 - 1) be registered as "Treasurer of the State of Illinois"; or
 - 2) be deposited into a new or existing securities or commodities account in the name of "Treasurer of the State of Illinois"; and

- 3) include all dividends, interest, warrants, or other rights, or associated cash in a check payable to "Treasurer of the State of Illinois".
- b) The Treasurer may, when remittance cannot be made as provided in subsection (a) above, provide written instructions to the holder for remittance of the particular security or commodity.

(Source: Added at 17 Ill. Reg. 123, effective December 21, 1992)

Section 760.94 Receipt and Sale of Securities and Commodities

- a) Securities and commodities received by the State Treasurer as unclaimed property shall be sold no sooner than one year or later than two years from the date of their respective publications pursuant to Section 12 of the Act, subject to the following:
 - 1) The Treasurer or the Treasurer's authorized representative determines it would be in the best interests of the owner (such as: responding to a tender offer, bankruptcy filing, liquidation, adverse or favorable market conditions) for the sale to occur prior to the expiration of the one year period following the publication of the securities or commodities.
 - 2) Securities and commodities eligible for sale will not be sold when a claim has been filed with the Treasurer by a potential owner, heir or agent. However, upon approval of a claim, the owner, heir or agent may request the Treasurer to dispose of the securities or, commodities by sale and remit the net proceeds to the owner, heir or agent, or, upon disapproval of the claim, the Treasurer shall dispose of the securities or commodities by sale.
- b) Securities and commodities that become reportable abandoned property under the Act, when remitted to the Treasurer, must include all interest, dividends, stock splits, if any, warrants or other rights even though the interest, dividends, stock splits, warrants or other rights standing alone would not be reportable abandoned property.
- c) Interest, dividends, stock splits, warrants or other rights that become reportable abandoned property under the Act must, when remitted to the Treasurer, include the underlying security or commodity giving rise to the interest, dividends, splits, warrants or other rights.

(Source: Amended at 36 Ill. Reg. 12162, effective July 12, 2012)

Section 760.95 Examination Gap

- a) For examinations of business associations commenced, completed and with the unclaimed property remitted to the Department of Financial Institutions on or after May 1, 1993 but prior to August 20, 1993, the limitation provision applicable to intangible personal property contained in Section 9 of the Act shall apply.

- b) For examinations of other than business associations commenced, completed and with the unclaimed property remitted to the Department of Financial Institutions on or after May 1, 1993 but prior to August 20, 1993, the limitation period applicable to presumptively abandoned property contained in Section 27 of the Act shall apply.

(Source: Added at 18 Ill. Reg. 18001, effective December 12, 1994)

Section 760.100 Claims

a) Filing of Claims

- 1) Claims shall be prepared and filed only on the following forms, provided by the State Treasurer upon request:
 - A) Owner Claim Form;
 - B) Owner Indemnification Form;
 - C) Holder Claim Form;
 - D) Corporate Claim Form;
 - E) Heir/Other Claim Form; or
 - F) Small Estate Affidavit.
- 2) The claimant shall assert on the appropriate form that he or she is the true owner of the unclaimed property and agrees to indemnify and hold harmless the Treasurer, its officers and employees, and the State of Illinois in the event of a successful claim to the property by another claimant.
- 3) If the subject property is valued at more than \$100, the signatures of the claimants shall be notarized by a notary public or be guaranteed by an officer of a bank or financial institution with which the claimants currently do business.
- 4) If a claimant is the owner and the value of the property does not exceed \$500, a fully completed owner claim form and owner indemnification form, submitted to the Treasurer, will be accepted as "proof of claim", unless the Treasurer has facts within its knowledge that would rebut the claim.
- 5) If the subject property is a two-party check, the claimant must, in addition to submitting a fully completed claim form:
 - A) submit the original check; or
 - B) submit verification in the form of an affidavit from the issuing agent of the check that the claimant is the true owner of the check and the issuing agent would pay the value of the check to the claimant if the issuing agent had not remitted the funds to the Director; or
 - C) post a surety bond, issued by an insurance company with an A+ or A rating by A.M. Best and Company, in the amount of the check.

b) Assignment of Interest

The Treasurer shall consider the claim of a designee or attorney-in-fact of any claimant, provided that:

- 1) a properly executed and notarized release of interest or power of attorney is submitted with the claim form;
- 2) the person filing the claim has submitted an affidavit stating that the claimant is the true owner of the property;

- 3) claim proceeds shall only be delivered to the rightful owner; and
- 4) compensation shall not exceed 10% of the claim amount collected, except as provided by Section 20(c) of the Act.

(Source: Amended at 36 Ill. Reg. 12162, effective July 12, 2012)

Section 760.110 Hearings on Claims

a) Hearing Officers.

The State Treasurer may designate, in writing, a hearing officer who shall have the authority to:

- 1) examine or permit examination of any witness under oath;
- 2) determine the order of appearance of all parties;
- 3) receive all evidence or testimony and rule on its admissibility as well as require the production of any relevant document or witness;
- 4) rule on objections to evidence;
- 5) make a report with recommendations to the Treasurer which shall include findings of fact and conclusions of law with respect to the claim. Findings of fact shall be based exclusively on the evidence and on matters officially noticed; and
- 6) require any party or his attorney to provide proposed findings of fact or conclusion of law for consideration in his report.

b) General Provisions.

- 1) If a hearing is required to consider a claim, the claimant or his attorney shall be notified by certified or registered mail, return receipt requested, at least fifteen days prior to the date set for such hearing. Delivery of notice to the United States Postal Service shall constitute delivery.
- 2) A continuance shall be granted for good cause by the Treasurer or his designee which shall be:
 - A) in writing, in duplicate and signed by the claimant or his attorney and shall state the reasons for the request;
 - B) delivered to the Treasurer or his designee at least three days prior to the scheduled hearing.
- 3) For purposes of this subsection, good cause shall require the petitioner to demonstrate real and compelling need for additional time. It shall include but is not limited to illness, other hardship, service in the armed forces, etc.
- 4) Failure to attend a hearing shall result in the dismissal of the party's claim and the assessment of the costs for such hearing upon the party. A person whose claim has been so dismissed shall not resubmit his claim until the assessed costs have been paid, unless he successfully petitions the Treasurer for reconsideration, by establishing that his failure to attend was occasioned by events beyond his control and he exercised due diligence to attend or seek a continuance.
- 5) The petitioner shall pay the actual cost of making the transcript. Such payment shall be made prior to the Treasurer's issuance of his decision.

- 6) The Treasurer may assess all costs and attorneys' fees against any party who has unreasonably delayed a proceeding or has filed a claim in bad faith.
 - A) Unreasonable delay of a proceeding shall be determined to exist upon a preponderance of evidence indicating that the petitioner is purposefully delaying the hearing either actively or through inattention to detail.
 - B) A determination of filing a claim in bad faith requires a preponderance of evidence that the hearing petition was filed merely to stay Treasurer action with no intent for expeditious resolution of the contested issue.

c) Conduct of Hearings.

- 1) The hearing officer shall open the hearing by presenting for the record his letter of authorization from the Treasurer. The claimant or his attorney shall then present his claim and the proof thereof. The proof of claim may include testimony, or any document relevant to the claim.
- 2) The rules of evidence and privilege as applied in civil cases in the Circuit Courts of the State shall be followed. The hearing officer may admit evidence not admissible under such rules if such evidence could be relevant to the claim.
- 3) The hearing officer may on his own motion or the motion of one of the parties take notice of matters which the Circuit Courts of this State may take judicial notice. Notice may be taken of generally recognized technical or scientific facts within the Treasurer's specialized knowledge if parties are notified, before or during the hearing, and shall be afforded an opportunity to contest the material so noticed. The burden of opposing any material admitted upon notice shall be upon the party so opposing.
- 4) No State Treasurer employee, or hearing officer shall, after notice of a hearing, communicate with any party or his attorney in connection with any issue in said hearing except upon notice and opportunity for all parties to participate.
- 5) The record of any hearing shall include:
 - A) all pleadings, and evidence received whether admitted or excluded;
 - B) a statement of all matters officially noticed;
 - C) all offers of proof, objections and rulings thereon;
 - D) all proposed findings and exceptions submitted by the parties;
 - E) any decision, opinion, or report by the hearing officer;
 - F) any communication prohibited by this rule, although such communication shall not form the basis for any finding of fact;
 - G) any evidence excluded by the hearing officer, even though such evidence is not used in the determination of the claim;
 - H) a proceeding transcript which shall be recorded by such means as to accurately insure the preservation of the testimony.
- 6) Within sixty days of the hearing or the receipt of all necessary documents, the hearing officer shall report to the Treasurer, pursuant to Section 760.110(a)(5).

- 7) Within thirty days after receiving the report of the hearing officer, the Treasurer shall issue his decision, which shall be served on claimant and other parties personally or by registered or certified mail, return receipt requested.
- d) Petition to Reconsider.
- 1) Within thirty days after receipt of the Treasurer's decision, any party may petition the Treasurer for reconsideration based upon a verified petition. An affidavit shall accompany the petition stating that the decision was against the manifest weight of the evidence, was contrary to law, or was arbitrary or capricious, or is affected by newly discovered evidence not in existence at the time of the initial hearing or which could not have been discovered using due diligence at that time.
 - 2) The Treasurer shall determine within fifteen days whether to reconsider the case. If reconsideration is allowed, a hearing shall be held pursuant to this rule and shall be limited to the issues raised by the petition and affidavit. If reconsideration is denied, the Treasurer's initial decision shall be the final administrative decision of the Treasurer.

Section 760.115 Non-Claim Hearings

Administrative hearings, except those regarding claims under Section 20 of the Act, will be conducted in accordance with the State Treasurer's procedures.

(Source: Added at 18 Ill. Reg. 18001, effective December 12, 1994)